

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT ECONOMIC CONSUMPTION BE DEDUCTED FROM AN AWARD OF DAMAGES FOR FUTURE LOST EARNINGS IN A SURVIVOR ACTION; AMENDING SECTION 27-1-501, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-1-501, MCA, is amended to read:

"27-1-501. Survival of cause of action or defense -- death or disability or transfer of interest. (1)

An action, cause of action, or defense does not abate because of the death or disability of a party or the transfer of any interest ~~therein in the action~~, but whenever the cause of action or defense arose in favor of ~~such the party~~ prior to ~~his the party's~~ death or disability or transfer of interest ~~therein in the action~~, ~~it the action~~ survives and may be maintained by ~~his the party's~~ representatives or successors in interest. If the action has not been begun or a defense ~~has not been~~ interposed, the action may be begun or a defense ~~may be~~ interposed in the name of ~~his the party's~~ representatives or successors in interest. If the action has been begun or a defense ~~has been~~ interposed, the action or proceeding may be continued as provided in Rule 25, M.R.Civ.P.

(2) Actions brought under ~~this section and~~ 27-1-513 ~~and this section~~ must be combined in one legal action, and any element of damages may be recovered only once.

(3) If, in an action to which this section applies, damages are awarded for a deceased or disabled party's future lost earnings, the deceased or disabled party's economic consumption must be deducted from the award. Economic consumption is the amount of the projected earnings that the deceased or disabled party would have spent on basic necessities and personal expenditures throughout the party's lifetime.

NEW SECTION. Section 2. Applicability. [This act] applies to a civil action begun after October 1, 2007.

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